

**Written Statement of Robert Kipp,  
President of the Common Ground Alliance**

**Hearing on “Pipeline Safety Public Awareness & Education”**

**Before the  
Subcommittee on Railroads, Pipelines, and Hazardous Materials  
Committee on Transportation and Infrastructure  
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## **SUMMARY**

### **Background:**

The Common Ground Alliance is a nonprofit organization dedicated to shared responsibility in the damage prevention of underground facilities. The Common Ground Alliance was created on September 19, 2000, at the completion of the “Common Ground Study of One-Call Systems and Damage Prevention Best Practices.” This landmark study, sponsored by the U.S. Department of Transportation Office of Pipeline Safety, was completed in 1999 by 161 experts from the damage prevention stakeholder community.

The “Common Ground Study” began with a public meeting in Arlington, VA in August 1998. The study was prepared in accordance with, and at the direction and authorization of the Transport Equity Act for the 21<sup>st</sup> Century signed into law June 9, 1998 that authorized the Department of Transportation to undertake a study of damage prevention practices associated with existing one-call notification systems. Participants in the study represented the following stakeholder groups: oil; gas; telecommunications; railroads; utilities; cable TV; one-call systems and centers; excavation; locators; equipment manufacturers; design engineers; regulators; federal, state, and local government. The Common Ground Study concluded on June 30, 1999 with the publication of the “Common Ground Study of One-Call Systems and Damage Prevention Best Practices.”

At the conclusion of the study, the Damage Prevention Path Forward initiative led to the development of the nonprofit organization now recognized as the Common Ground Alliance (CGA). The CGA’s first board of directors’ meeting was held September 19, 2000. Building on the spirit of shared responsibility resulting from the Common Ground Study, the purpose of the CGA is to ensure public safety, environmental protection, and the integrity of services by promoting effective damage prevention practices.

The CGA now counts more than 1,400 individuals representing 16 stakeholder groups and nearly 200 member organizations. In addition, our 60 Regional Partners total some 2,000 members covering most states and 6 Canadian Provinces.

The CGA’s nearly \$1.7M in revenue for 2009 was derived from a PHMSA grant of \$500,000.00 and membership and sponsorship dues totaling approximately \$1.2M. In addition, members contribute approximately 10,000 hours of their time and pay for their expenses. The

funding and contribution of time enable the CGA to complete its programs and operate the organization. The CGA has three full time employees and one part time employee. Each of CGA's 16 participating stakeholder groups has one seat on the CGA Board of Directors, regardless of membership representation or financial participation.

CGA members populate the organization's six working committees: the Best Practices Committee, the Technology Committee, the Educational Programs & Marketing Committee, the Data Reporting & Evaluation Committee, the One Call Systems International Education Committee and the Regional Partners Committee.

Committee decisions are made by consensus of all 16 stakeholders. Every best practice, every educational initiative, every decision at the committee level comes with the support of every stakeholder group.

### **WORKING COMMITTEES**

The CGA working committee guidelines include:

- All stakeholders are welcomed and encouraged to participate in the Committees' work efforts.
- Committee members represent the knowledge, concerns and interests of their constituents.
- A "primary" member is identified within each Committee for each particular stakeholder group as the spokesperson for consensus decisions.

The Common Ground Alliance is managed by the association's Board of Directors. Currently, each director on the Board represents one of the 16 CGA stakeholder categories. The Directors are elected by the CGA members within their respective stakeholder group, and represent the stakeholder group at approximately five meetings and to three to six teleconferences per year. Following are the names of the directors and the stakeholder group they represent:

***Excavator***...Jim Barron, Ronkin Construction

***State Regulator***...Massoud Tahamtani, Virginia State Corp. Commission

***Insurance***...John Komidar, Travelers Insurance

***Railroad***...Bob Fronczak, Association of American Railroads

***Oil***...Ron McClain, Kinder Morgan

***Locators***...Jamal Masumi, Utiliquest LLC

*Public Works*...Mark Macy, City of Nashville  
*One Call*...JD Maniscalco, Utility Notification Center of Colorado  
*Equipment Mfg*...Nate Clark, John Deere  
*Gas Distribution*...Don Kopczynski, Avista Corporation  
*Gas Transmission*...Randy Barnard, Williams  
*Engineering*...Bill Johns, SPEC Services  
*Road Builder*...Vic Weston, Tri-State Road Boring  
*Electric*...Patti Lama, Portland General Electric  
*Telecomm*...Diane McCarthy, Verizon  
*Emergency Services*...Jerry Rosendahl, Minnesota State Fire Marshal)  
*At Large*...Tim Felt, Colonial Pipeline  
*At Large*...Corey Willson, 3M  
*At Large*...Abigail Fulton, BC Construction Association  
*At Large*...Paul Preketes, Retired Past Chair

The following includes an overview of each CGA working committee.

1. **Best Practices Committee**: The purpose of the Best Practices Committee is to promote damage prevention, it is important that all stakeholders implement the CGA's damage prevention Best Practices Version 7.0, as applicable to each stakeholder group. The Best Practices Committee focuses on identifying Best Practices that are appropriate for each stakeholder group, gauging current levels of implementation and use of those Best Practices, and encouraging and promoting increased implementation of the Best Practices.
2. **Technology Committee**: The mission of the Common Ground Alliance Technology Committee is to seek, identify, and communicate technologies and practices that improve the utility damage prevention process.
3. **Educational Programs and Marketing Committee**: The Committee develops and communicates public stakeholder awareness and educational programs. These programs and products focus on the best practices and the theme of damage prevention. The Committee looks at existing damage prevention educational programs to identify opportunities where the CGA can have significant impact in furthering the reach and effectiveness of those programs and the Committee develops new educational messages and strategies.
4. **Data Reporting and Evaluation Committee**: The Data Reporting & Evaluation Committee looks at currently available damage data, the gaps where additional data reporting and evaluation is needed, and how such data for various underground

infrastructure components, can best be gathered and published. Reporting and evaluation of damage data is important to: measure effectiveness of damage prevention groups; develop programs and actions that can effectively address root causes of damages; assess the risks and benefits of different damage prevention practices being implemented by various stakeholders; and assess the need for and benefits of education and training programs.

5. **One Call Systems International Committee**: The purpose of One-Call Systems International (OCSI) is to promote facility damage prevention and infrastructure protection through education, guidance and assistance to one call centers internationally. OCSI was also responsible for coordination of the nationwide rollout of “811”.
6. **Regional Partner Committee**: The CGA recognizes that existing regional damage prevention groups have invaluable knowledge and experience, and these groups continue to make great strides in preventing excavation damage to America’s infrastructure. The CGA also recognizes that some areas of the country currently have no regional damage prevention programs and work to address these gaps. Through the CGA Regional Partner Program, the CGA partners with existing local, regional, and state damage prevention programs that have an objective of promoting communication among all stakeholders about damage prevention Best Practices.

## **PIPELINE SAFETY, PUBLIC AWARENESS AND EDUCATION**

### **A. 811 – Nationwide Call Before You Dig Telephone Number**

The Educational Programs & Marketing Committee has primary responsibility for “Pipeline Safety Public Awareness & Education”. Most of the CGA’s activities focus on all underground facilities, though some programs may be specific to one industry. The following summarizes CGA’s major activities in Public Awareness and Education.

**811:** On December 17, 2002, President George W. Bush signed into law the “Pipeline Safety Improvement act of 2002”. Included in this Act was the following provision: ***“Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit***

*nationwide toll-free telephone number system to be used by State one-call notification systems.”*

We congratulate and thank this committee and former congressman Chris John for introducing and sponsoring 3-digit-dialing as a provision to the “Pipeline Safety Improvement Act of 2002.” We congratulate the FCC commissioners on their unanimous support of this endeavor.

The process to assign and implement this number “811” was completed in 2007. On May 1, 2007, “811” was put into service across the country. Much of the CGA focus for public awareness has been focused on educating the public and excavators to call 811 before digging. The CGA is unique in that we rely almost completely on our network of members to implement the 811 campaign.

**Recent “811” initiatives include the following:**

1. National Safe Digging Month: On March 26 (legislative day, March 25), 2010, IN THE SENATE OF THE UNITED STATES Mr. LAUTENBERG (for himself, Mr. THUNE, and Mr. ROCKEFELLER) *Resolved*, That the Senate supports the goals of National Safe Digging Month and encourages homeowners and all excavators throughout the country to call 811 before digging. Additionally, there were 40 State Proclamations supporting April as Safe Digging Month.
2. 3M and Shell NASCAR Events: In November 2009, the 811 logo and tagline were painted on the number “29” Shell race car in Homestead for the closing race of the 2009 NASCAR series. In April of this year, Shell once again painted the logo and tagline on their car for the Talladega race. They were joined by 3M who included the 811 logo and tagline on the #16 car. At no cost to the CGA, these messages generated more than half a million dollars worth of media coverage for the 811 message.
3. Professional Bass Boat: The Kentucky and Indiana one call centers, now known as “Kentucky 811” and “Indiana 811” painted the 811 logo and message on the boat and trailer of a professional bass fisherman fishing the Professional Anglers Association, PAA. This gentleman tours the country and is seen on television spreading the 811 message.

4. August 11 as 8/11 Day in New York City: More than 50 volunteers “worked” the rope lines at the TODAY Show and Early Show wearing 811 tee shirts on 8/11 day (August 11, 2009). One of the volunteers was interviewed, generating a message, which according to media experts would have cost some \$50,000.00. CGA will be there again this year.
5. Ring the closing bell on the New York Stock Exchange in partnership with John Deere: John Deere has arranged to ring the closing bell at the NYSE on August 20. The stage backdrop will showcase the 811 logo and will be aired on most major network’s evening news broadcasts. The media equivalency value is substantial.
6. Atmos Energy Promotion: Atmos Energy, CGA Sponsor, incorporated the 811 logo on to all print correspondence which equates to 600 million pieces of literature annually.
7. Partnership with United Rentals: United Rentals has agreed to place decals on excavation equipment at the warehouse whereas it arrives on the rental dock already on the equipment. They will also place “811” decals on the 11,300 trackhoes and backhoes currently in their rental inventory.
8. Electronic Billboards: Member companies have promoted 811 using electronic billboards including during Chicago White Sox and Cincinnati Reds games.
9. Partnerships with Radio Disney: CGA members have worked with Radio Disney to promote 811 at the Pittsburgh Zoo and Chicago Zoo as well as multiple malls in Indiana.
10. 811 Public Service Announcements: The CGA has produced and provided Radio and television Public Service Announcements, PSA’s for use by any company who wishes to download and distribute to the radio and television stations in their service area. Chevron funded the production and distribution of a radio PSA tailored to the 19 coastal parishes in Louisiana. This message was aired shortly after the start of the oil leak in the Gulf and asked those thinking of dredging to please call before dredging in the Gulf, to avoid further environmental damage and potential injury. Chevron subsequently paid for an advertising schedule to ensure the message would get airtime.
11. 811 Pirate Video Aimed at Next Generation of Diggers: Williams Pipeline provided funding for the CGA to create, produce and distribute a video for educating 8 to 11 year old children on the dangers of digging and the treasures that lie below the surface. This nearly eight minute video is being distributed throughout the country to various school organizations, public libraries and youth organizations.

12. Media Outreach/Interviews: CGA employees, members and various one call center employees have appeared on nationally syndicated programs such as ABC Radio, The Money Pit, WGN Chicago, as well as numerous local programs. The 811 message also appears throughout multiple internet sites, and the CGA and member organizations have incorporated Social Media into the 811 outreach plan.
13. Integrated Website at [www.call811.com](http://www.call811.com): The entire CGA Public Awareness Campaign is available for download by stakeholders at [www.call811.com](http://www.call811.com). The site includes state specific information and links to all One Call Centers. The site also includes frequently asked questions, “how 811 works,” and opportunities for feedback and questions.
14. Print Campaign: CGA members have included the use of 811 and the “Call before you Dig” message in newsprint, bill stuffers, bumper stickers and door hangers. The logo and tagline can also be found in magazines, such as: Southern Living, Delta Sky Miles, US Airways Magazine and Popular Mechanics. Advertisements and articles have also appeared in a variety of newspapers including: USA Today, New York Times, Washington Post and the Chicago Sun Times.
15. Large Scale Placement of 811: Early in the campaign, Colonial Pipeline painted a 30 foot high “811” logo and the accompanying “Know what’s Below, Call before you dig” message on a holding tank along Interstate 85 near Greensboro, NC, a highly travelled highway. Following their lead, Kinder Morgan, Sunoco, P.S.E. & G. of New Jersey, Williams, Shell, and others have all painted the “811” logo and message on highly travelled highways in various states nationwide.
16. Mark-it Madness: Ten one call centers calling themselves Mar-kit Madness have pooled advertising money and contracted Joey Logano, a NASCAR driver, who has recorded radio and television PSA’s. Logano’s photo also has been incorporated into a large scale print campaign where he appears on various billboards at Texas Motor Speedway, Daytona International Speedway, and Michigan International Speedway. The group focuses on leveraging pooled resources to promote a single consistent campaign.
17. Various Placements: Other placements of the 811 logo and message include banners on roadways, floor decals in Home Depot and fleet decals on various vehicles. CGA estimates that stakeholder support of the 811 campaign provides a value of \$10 million in advertising equivalency value annually. Because of the unique marketing mix of traditional and non-



traditional mediums; this is an estimate. There are no proven advertising equivalency values for mediums such as placing the 811 logo on tanks, letterhead, fleet vehicles etc. However, advertising equivalency for advertising buys, NASCAR appearances, etc. have been validated.

## **B) CGA Best Practices**

The CGA Best Practices are quickly becoming the standard on Damage Prevention practices. A number of States have adopted some or all of the CGA practices in their laws or “rules” governing excavation practices. The Best Practices Committee, a diverse 70 plus person committee of damage prevention professionals comprised of all stakeholder groups, is very cognizant of this evolution and give the utmost thought and care to every practice considered.

The CGA prints a new edition of Best Practices every year for general distribution beginning at our annual meeting in March of each year. We make every effort to ensure our distribution is as widespread as possible utilizing as many forms of media as possible.

### **Compliance & Enforcement:**

In August 1999, the 161 experts who developed the original Common Ground Best Practices unanimously agreed that an effective Compliance and Enforcement program at state level was required to reduce the incidences of damage to the infrastructure.

These practices are contained in the Common Ground Alliance’s Best Practices Version 7.0 and are as follows:

#### **7-1: Public and Enforcement Education**

##### **A. Public Education**

**Practice Statement:** Public education programs are used to promote compliance.

**Practice Description:** A single entity is charged to promote comprehensive and appropriate programs to educate all stakeholders about the existence and content of the damage prevention laws and regulations. This is not meant to discourage individual stakeholders from providing educational programs.

##### **B. Enforcement Education**

**Practice Statement:** Mandatory education is considered as an alternative or supplement to penalties for offenders of the damage prevention laws and regulations.

**Practice Description:** Once a violation of the damage prevention laws or regulations has occurred, mandatory education is an effective alternative or supplement to civil penalties. Mandatory education as an enforcement tool promotes compliance with damage prevention laws and regulations.

## **7-2: Incentives**

**Practice Statement:** Damage prevention programs include incentives to promote compliance with laws and regulations.

**Practice Description:** Incentives can include, but are not limited to, ease of access to one call center, membership and participation considerations, representation on one call boards, reasonable enforcement of regulations, safety and liability protection, access to alternative dispute resolution (ADR), and public education.

## **7-3: Penalties**

**Practice Statement:** Compliance programs include penalties for violations of the damage prevention laws or regulations.

**Practice Description:** Within the context of one call statutes, there exists specific provisions for penalties for failure to comply with the damage prevention laws and regulations. Performance and penalty incentives are equitably administered among stakeholders subject to one call provisions.

**A penalty system** includes education as an alternative or supplement to civil or other penalties.

## **7-4: Damage Recovery**

**Practice Statement:** State damage prevention laws and regulations recognize the right to recover damages and costs resulting from noncompliance.

### **A. Right of Recovery**

**Practice Description:** The statute recognizes an injured party's right to recovery when damages and/or costs are incurred as the direct result of an entity's failure to comply with the one call laws and regulations. For example, Arizona endorses an injured party's right to recover damages when the other party has failed to comply with the one call law.

## B. Alternative Dispute Resolution

**Practice Description:** Avenues for settlement of disputes include alternative dispute resolution. Minnesota endorses ADR through the state court system, New Jersey endorses ADR in construction contract documents, and the federal government endorses ADR through the federal courts.

## 7-5: Enforcement

### A. Authority

**Practice Statement:** An authority is specified through state statutes and given the resources to enforce the law.

**Practice Description:** The enforcement authority in each state has the resources to enforce the laws and regulations. Experience has demonstrated that enforcement of the one call laws and regulations that did not identify a specific authority other than the attorney general has not been effective.

#### **Characteristics of such an authority include:**

- a process for receiving reports of violations from any stakeholder;
- an operating budget source other than fine revenue, such as a line item in the state budget, excluding fines as a source of income for the authority;
- stakeholder involvement in periodic review and modification of enforcement processes;
- resources to respond to notifications of alleged violations in a timely manner;
- a method of investigating alleged violations prior to issuing a notice of probable violation;
- impartial authority adjudicating violations;
- an initial informal means of contesting a notice of violation; and
- a published violation review process and violation assessment considerations.

### B. Structured Review Process

**Practices Statement:** A structured review process is used to impartially adjudicate alleged violations.

**Practice Description:** Two types of review processes currently used are outlined below. These type of processes differ in terms of 1) who receives reports of alleged violations, 2) who investigates the reports, 3) possible outcomes of the investigation, 4) who conducts 1st tier (informal) hearings, 5) possible outcomes of 1st tier hearings, and 6) appeal rights following a 2nd tier (formal) hearing. It is important that review processes are

constructed to avoid abuses of authority and prevent any individual, industry, stakeholder or agency from exercising undue power or influence over the process.

**Type 1:** Traditional Enforcement Authority - This system is currently used in Arizona, Connecticut, Massachusetts, Minnesota, New Hampshire, New Jersey, New York and Pennsylvania. Reports of alleged violations are sent to the State Agency. A state investigator investigates the reports. If the investigator decides not to issue a NOPV (Notice of Probable Violation), the matter is concluded. If not, the NOPV is issued, and the investigator conducts an informal hearing or review. If the investigator determines that no violation was committed the matter is concluded. If the investigator determines that a violation was committed, the NOV (Notice of Violation) is issued. If the alleged violator does not contest the NOV, the alleged violation is bound by the facts, findings, orders and penalties set forth in the NOV. If the alleged violator so requests, the State Agency conducts a formal hearing. The alleged violator may appeal the decision reached in the formal hearing to the state court system.

**Type 2:** Advisory Committee (made up of stakeholders) partnered with State Agency - This system is currently used in Virginia. Reports of alleged violations are sent to the State Enforcement Agency. The State Agency investigates the alleged violations and reports to an advisory committee. The Committee is made up of stakeholders representing the following statutorily mandated fields: excavators, facility owners/operators, notification centers, contract locators, local governments, State Department of Transportation, the Board of Contractors, and the State Enforcement Agency. If the advisory committee decides not to issue a NOPV (Notice of Probable Violation), the matter is concluded, possibly with a “letter of concern” containing one call information. If the advisory committee decides to issue an NOPV, it is issued by the State Agency. If the alleged violator does not request a hearing, the alleged violator is bound by the enforcement action set forth in the NOPV. If the alleged violator so requests, an informal hearing is held by the advisory committee. If the advisory committee decides that no violation was committed, the matter is concluded, subject to the right of the State Agency to contest that decision in an administrative proceeding conducted by the agency. If not, the NOV is issued. If the alleged violator then settles the matter with the advisory committee, the settlement is subject to approval by the State

Agency in an administrative proceeding. If there is no settlement, the State Agency conducts a formal administrative hearing. The alleged violator may appeal the decision reached in the formal hearing to the state court system.

Importance of Effective Compliance/Enforcement:

The practices outlined in CGA's Best Practices still hold true today. The Best Practices have remained the same on this issue since they were first written more than 10 years ago. There are a number of states with effective enforcement programs including Minnesota, Virginia, New Hampshire, Maine, Georgia and others.

The CGA believes that consistent, fair and balanced State Enforcement of one call laws in states where no enforcement exists today, has the greatest potential for helping reduce damages. There are states that enforce their laws without impacting their already tight state expense budgets.

We believe the second most important consideration is the elimination of state exemptions to one call laws. These two issues, if implemented, will help us continue this yearly trend of reduced excavation damages in this country.

**C) Damage Information Reporting Tool (DIRT)**

The primary purpose in collecting underground facility damage data is to analyze data, learn why events occur, and how actions by industry can prevent them in the future; thereby, ensuring the safety and protection of people and the infrastructure. Data collection allows the CGA to identify root causes and perform trend analysis, and in turn, CGA's stakeholders are better able to focus educational efforts and improve practices and procedures.

The CGA's purpose is to reduce underground facility damage, which threatens public and worker safety, and costs billions of dollars each year. In order to better understand where, how and why these damages are occurring, we request accurate and comprehensive data from all stakeholders.

In August, the CGA will publish its sixth report on damage data. The following is a brief summary of highlights that will be published in this report:

- More than 100,000 reports were voluntarily input into our system for the year 2009, marking the fourth consecutive year of more than 100,000 records being included as part of the analysis;
- It is estimated that total damages to the underground infrastructure (including gas, petroleum, telecommunications, electric, water, etc.), have gone from an estimated 450,000 in 2004 to 170,000 in 2009. This reduction has followed a relatively straight line with no major changes in any one year. With the many variables involved in determining these numbers, it is felt that though the absolute number may vary, there is a great degree of confidence in the downward slope identified over the years. The downward trend in the total estimate of damages is due, in part, to the recession and resulting decrease in overall construction activity. However, we believe that the remarkable 60% reduction in excavation damages from 2004-2009 is also the result of the successes of the “811” implementation and public awareness campaign, widespread implementation of our Best Practices as well as various corporate and government initiatives.
- CGA estimates that the percentage of damages where no call was made to the one call center prior to excavation decreased from approximately 45% in 2004 to approximately 35% in 2009. In terms of damages the difference is immense. It is estimated that no call was made to the one call centers in more than 200,000 damages in 2004, while that number was estimated to be approximately 60,000 in 2009. We believe that the advent of 811 and the Public Awareness programs of CGA stakeholders have had a major impact on this aspect of damage prevention.
- We still have a great deal of work to do. In a separate survey done earlier this year 50% of homeowners planning to work on a back yard project, and who knew to call the one call center did not plan on calling. Consistent and meaningful education and outreach is still needed as we work to change the behavior of homeowners.

## **CLOSING**

The Common Ground Alliance is a true member-driven organization. Members from the 16 stakeholder groups work together to determine direction and problem-solve, making the CGA a truly unique forum. The 300 or so committee members check egos at the door and work together to develop consensus decisions. Their efforts and the financial support of their companies are what make the CGA the success it has become.

Though I have said very little of PHMSA to this point, I can state with great pride and immense gratitude that the CGA would not exist without the financial and logistical support of PHMSA and their great staff led by Cynthia Quarterman, Jeff Wiese, and Steve Fischer. It seems they can never do enough for the CGA. Representatives of PHMSA participate at every committee meeting and provide us with the necessary support to advance the cause of Damage Prevention.

Lastly, thank you to our sponsors. The 43 companies that sponsor the CGA as well as our additional 122 member organizations provide the financial support that CGA needs to sustain and grow our programs. There are many other companies reaping substantial benefits from the efforts of the CGA and our wonderful sponsors and active members. To those companies who are not involved, it's time to get on board. To our sponsors and members – THANK YOU, THANK YOU, THANK YOU.

Thank you for the opportunity to provide you with this testimony.